

United States District Court
Eastern District of Washington

Melissa Commodore,
J. [REDACTED] G. [REDACTED]
Ernest Commodore, Linda Commodore
(In the space above enter the full name(s) of the plaintiff(s).)

FILED IN THE
U.S. DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

DEC 26 2019

SEAN F. McAVOY, CLERK
DEPUTY
SPOKANE, WASHINGTON

-against-

Case No. _____
(To be filled out by Clerk's
Office only)

Department of Defense U.S. Airforce Fairchild
Airforce Base in Washington State

COMPLAINT

Jury Demand?

☒ Yes

☐ No

(In the space above enter the full name(s) of the defendant(s).
If you cannot fit the names of all of the defendants in the
space provided, please write "see attached" in the space
above and attach an additional sheet of paper with the full list
of names. The names listed in the above caption must be
identical to those contained in Section I. Do not include
addresses here.)

NOTICE

Federal Rule of Civil Procedure 5.2 addresses the privacy and security concerns resulting from public access to electronic court files. Under this rule, papers filed with the court should *not* contain: an individual's full social security number or full birth date; the full name of a person known to be a minor; or a complete financial account number. A filing may include *only*: the last four digits of a social security number; the year of an individual's birth; a minor's initials; and the last four digits of a financial account number.

If this is an employment discrimination claim or social security claim, please use a different form.

Plaintiff need not send exhibits, affidavits, grievance or witness statements, or any other materials to the Clerk's Office with this complaint.

Plaintiff

List your name, address and telephone number. If you are presently in custody, include your identification number and the name and address of your current place of confinement. Do the same for any additional plaintiffs named. Attach additional sheets of paper as necessary.

Plaintiff:

Commodore, Melissa L
Name (Last, First, MI)

34620 4th Pl SW
Street Address

Federal Way
County, City

WA
State

98023
Zip Code

(206) 355-4108
Telephone Number

broadcastcommunications@yahoo.com
E-mail Address (if available)

Defendant(s)

List all defendants. You should state the full name of the defendants, even if that defendant is a government agency, an organization, a corporation, or an individual. Include the address where each defendant can be served. Make sure that the defendant(s) listed below are identical to those contained in the above caption. Attach additional sheets of paper as necessary.

Defendant 1: Department of Defense U.S. Air Force Fairchild Air Force Base in
Name (Last, First) Washington State

8302 E. Arnold St.
Street Address

Fairchild AFB
County, City

WA
State

99208-0000
Zip Code

Defendant 2:

Name (Last, First)

Street Address

County, City State

Zip Code Defendant(s) Continued

Defendant 3:

PARTIES IN COMPLAINT

Commodore, Melissa, L
34620 4th PL SW, Federal Way, WA. 98023
(206) 355-4108 broadcastcommunications@yahoo.com

C [REDACTED], J [REDACTED]
34620 4th PL SW, Federal Way, WA. 98023
(206) 355-4108

Commodore, Linda, F
34620 4th PL SW, Federal Way, WA. 98023
(206) 595-2312 tuttybug@juno.com

Commodore, Ernest
34620 4th PL SW, Federal Way, WA. 98023
(206) 304-6630

Defendant(s) Continued

Defendant 3:

Name (Last, First)

Street Address

County, City

State

Zip Code

Defendant 4:

Name (Last, First)

Street Address

County, City

State

Zip Code

II. BASIS FOR JURISDICTION

Check the option that best describes the basis for jurisdiction in your case:

☒ **U.S. Government Defendant:** United States or a federal official or agency is a defendant.

☐ **Diversity of Citizenship:** A matter between individual or corporate citizens of different states and the amount in controversy exceeds \$75,000.

☐ **Federal Question:** Claim arises under the Constitution, laws, or treaties of the United States.

If you chose "Federal Question", state which of your federal constitutional or federal statutory rights have been violated.

Basis for Jurisdiction

Defendant Fair Child Airforce Base violated the plaintiff's, Melissa Commodore, J [REDACTED] C [REDACTED], Ernest Commodore and Linda Commodore federal statutory rights set forth in the Washington State Legislation and listed below that protects citizens from toxic drinking water and from organizations and or government who violate the public health and safety.

The public and citizens referred to in this document are plaintiffs Melissa Commodore, J [REDACTED] C [REDACTED], Ernest Commodore and Linda Commodore.

Defendant violated federal statutory rights and used products that contained hazardous and deadly chemicals as fire-fighting foam used for training, for decades (since the 1970's), which contained high levels of PFOS (perfluorooctane sulfonic acid) and PFOA's (perfluorooctanoic acid) that infiltrated the public water system in Airway Heights Washington. According to the United States EPA (Environmental Protection Agency) PFO's and PFOA's are man-made chemicals that are unable to break down in the human body and "can accumulate over time, and exposure to these chemicals can lead to adverse human health effects." PFA's are a group of more than 4,000 synthetic harmful chemicals. These chemicals have been used around the globe since the 1940's according to the EPA but have been phased-out in 2006 through EPA voluntary agreement with eight major companies. Unfortunately, the plaintiffs have consumed the public drinking water in Airway Heights Washington that have PFO's and PFOA's produced by defendant and have experienced and currently are experiencing adverse health effects as a result of these chemicals. Also, the levels of PFO's and PFOA's in the drinking water exceed the EPA's Health Advisory limit. The EPA refers to drinking water that includes PFO's and PFOA's as "typically localized and associated with a specific facility (e.g., manufacturer, landfill, wastewater treatment plant, firefighter training facility)."

According to ATSDR (Agency for Toxic Substances and Disease Registry), some of the health effects from PFO's and PFOA's are in the following areas. However, the side effects listed below are not exhaustive of all the effects that result from PFO's and PFOA's in the human body over time.

- hair growth, learning, and behavior of infants and older children.
- Lower woman's chance of getting pregnant
- Interfere with the body's natural hormones
- Increase cholesterol levels
- Affect the immune system
- Increase the risk of cancer
- Increased level of thyroid disease
- Immune effects

The Defendant knowingly failed to assure safe and reliable public drinking water and to protect public health and was negligent in their actions to ensure the safety and health of all

citizens visiting or living in Airway Heights Washington. Defendant did not comply with all applicable federal, state and local rules concerning consumption of safe drinking water by the public. Defendant did not Protect the water sources used for drinking water. Defendant did not provide treatment adequate to assure that the public health was protected. Defendant did not notify plaintiffs (public) of possible exposure when brought to their attention and did not take action to protect the plaintiffs (public) from exposure. The defendant did not assure the availability of safe and reliable drinking water for the plaintiff's nor did the defendant take investigative or corrective action necessary to assure that a safe and reliable drinking water supply was continuously available to users during the years of using hazardous firefighting foam. However, defendant's use of chemical firefighting foam for training purposes should have never been utilized as it was a hazardous to the plaintiff's health.

Due to the defendant's negligence, indifference and imprudence concerning the safety of its citizens, the plaintiffs suffered various health problems listed in the personal injury section of this document and are susceptible to additional health problems that may arise in the future.

These rights are not exhaustive of all the rights the Defendant has violated against plaintiff's Melissa Commodore, J [REDACTED] C [REDACTED] Ernest Commodore and Linda Commodore.

III. VENUE

This court can hear cases arising out of the Eastern District of Washington.

Under 28 U.S.C § 1391, this is the right court to file your lawsuit if: (1) All defendants live in this state AND at least one of the defendants lives in this district; OR (2) A substantial part of the events you are suing about happened in this district; OR (3) A substantial part of the property that you are suing about is located in this district; OR (4) You are suing the U.S. government or a federal agency or official in their official capacities and you live in this district. Explain why this district court is the proper location to file your lawsuit.

Venue is appropriate in this Court because:

A substantial part of the events the plaintiff(s) are suing about happened in the Eastern District of Washington.

IV. STATEMENT OF CLAIM

Place(s) of
occurrence:

Airway Heights, WA 99001

Date(s) of occurrence: *June 2014 - May 2016*

State here briefly the FACTS that support your case. Describe how each defendant was personally involved in the alleged wrongful actions.

FACTS:

Please see attached

What
happened to
you?

Was
anyone
else
involved?

Who did
what?

V. INJURIES

If you sustained injuries related to the events alleged above, describe them here.

Please see attached

VI. RELIEF

The relief I want the court to order is:

☒ Money damages in the amount of: \$ 400 Million

☒ Other (explain):

Plaintiffs are seeking all damages available under the law

Statement of Claim

What Happened to You & Who did What:

Around March or April of 2014, I Melissa Commodore signed a lease agreement to begin around June with Copper Landing Apartment in Airway Heights Washington at 10913 West 6th Avenue Apartment C 311. My then five-year-old son J [REDACTED] C [REDACTED] also lived with me at this residence and we resided in apartment C311 for two years from 2014-2016. The apartment complex we lived in was new construction and our apartment unit was new as well. While living at Copper Landing Apartment my son and I consumed toxic water and complained multiple times to the landlord who sent maintenance and the plumbers/pipefitters who initially installed the pipes in our building to our unit several times over the course of two years. The maintenance workers, plumbing company/pipefitters told us they did not know where the smell was coming from although they did state they could smell the odor in the water.

Initially management responded with maintenance workers trying to fix the problem, however, when they could not reach a resolve the maintenance and landlord then called in the people that installed the pipes for the complex and they too could not figure out why my water smelled so bad. After multiple attempts to resolve the matter they told me to pour some red liquid down the sinks and drains to stop the odor temporarily. The apartments my son and I resided in were brand new units and the maintenance supervisor did let me know that other units smelled like mine. They also replaced a certain part on my water heater as well, but that did not work either. Shortly after I moved into my apartment my mother, Linda Commodore stated that the water smelled.

Our complaints started in January of 2015 about the smell from the water and did not end until I moved out in May of 2016. My son was 5 years-old at the time and a few months after living at this residence we started experiencing sickness among other problems. I experienced hair loss, stomach pains and rashes on different parts of my body, nose bleeds, severe chest pains in addition to other health risks. Several times my son and I became very nauseous from the fumes from our water which fumigated the entire apartment. My son experienced severe chest pains, rashes all over his body including face, pubic and under arm hair growth began to grow on him, he had stomach pains, nose bleeds, bronchitis, and asthma. Neither one of us had these symptoms before our move to Airway Heights however, we are still suffering from the majority of these symptoms today. During this time my son was continuously sick to where he missed an excess amount of time from school and was in jeopardy of truancy due to the amount of time, he had to miss because of his sickness from the toxic water he consumed.

Between the years of 2014-2016 I smelled fumes like diesel fuel, feces and rotten eggs come from our water and sink and bathtub drains. My son and I made doctor visits during this time as well to try and remedy our sickness.

My parents Ernest & Linda Commodore would always come to visit me in helping care for my son during this time. They also consumed this toxic water and are victims of the side effects from it. My mother contracted a rash similar to mine in the same areas of her body as well. My older sister Jennifer Commodore who would also come to visit me and my son also experienced the same rash that my mother and I contracted located in the same area on our body from the consumption of the toxic water. Neither of us had such symptoms before my stay at

Copper Landing Apartments in Airway Heights Washington. Our symptoms include but are not limited to the above listed, however, more may develop in the years to come. I was unsure of what was going on until last year summer.

**Theses times are an estimate*

In January of 2016 I called the Airway Heights water department again and spoke to them about what was going on with my water and asked if they could come out and check my water. They asked me if I had ground water or well water, I told them "I do not know, and shouldn't you have the information?" They said we have no way of knowing and for me to contact Spokane Water department because my water could be coming from Spokane. I then called Spokane Water Department in January or February of 2016 and told them about what was going on with my water and a worker from there asked me if I had well water or city water I told him I do not know the source of where my water comes from. I also explained to him how I have been getting the run-around and he then advised me to go to Olympia WA because that is where the water department headquarters are located at and they could better assist me.

In 2016 I along with my father Ernest and mother Linda Commodore and son J [REDACTED] went to the Washington state headquarters in Olympia to report what has been happening with the water at my apartment complex. However, I was not aware of the source of the water problem at the time or that it was actually the water causing our symptoms. I spoke to a female representative who worked in the water department in Olympia who saw the water in a sterilized glass jar I bought with me. The worker confirmed it was milky white and told me that I should make a report/complaint just in case anything comes of it. I went back to the representative's office and spoke with a male intake officer over the phone to file my complaint about the water. I was later told by the male intake officer and the representative that they had no complaints from anyone else about the water. The representative told me to have my son tested to see what was in the water if he had any of the symptoms. In reporting the water problem to Olympia Washington and Copper landing apartments, I stated that I smelled diesel fuel, feces and rotten eggs. There was also red residue accumulating at the bottom of my sink stoppers. Me and my son's clothes would constantly smell like these orders after washing them in our washer and other people could smell these orders on our clothes as well.

In April of 2016 I went to see our family physician and our physician informed me that in order for a to test to be conducted on my son and I he needed to know what was in the water and for me to get my water tested to see what was in the water.

Around May of 2016 I took my water I took my water to be tested in Spokane WA, but a female representative from the facility would not test my water and told me it was too old. I asked them "How do you know what date I collected my water on?" it's not old I just collected it. The woman then said it has to be in a sterilized container and I told her it was. She went on to say she still could not test the water.

On April 23, 2016 I had enough and could find no one to help me and wrote a letter to Copper Landing Apartments asking for an early release from my tenant agreement and giving my written notice of vacating. I had to leave my apartment and find other living places because my apartment in Airway Heights was an uninhabitable place to live.

Personal Injury:

I Melissa Commodore, along with J [REDACTED] C [REDACTED], Ernest Commodore, Linda Commodore and Jennifer Commodore each experienced injury as a result of the water at my place. Many symptoms have yet to be tested and we are still in jeopardy of the symptoms listed from the PFO's and PFA's as we consumed large amounts of water that had large amounts of both PFO's and PFA's in our drinking water. While some injury/symptoms from the water has already manifested itself within our body other symptoms may be lying dormant within our body currently. There are other side effects that could possibly affect myself, my son, parents and sister that we are not aware of.

Melissa Commodore

My (Melissa Commodore) symptoms are as follows: Hair loss, chest pains, shortness of breath, nauseousness, stomach pains, rashes on body, coughing, low white blood cells, headaches, and dizziness. These symptoms impeded on my everyday activities (e.g. schooling, work, homework, driving). I also experienced loss of finances due to the amount of water I had to buy and the rent I paid living in an uninhabitable unit.

Mental anguish and stress. Every day for two years my son and I had to bathe in this toxic water that smelled like chemicals, diesel fuel and rotten eggs and human feces. Our clothes would smell like this every day and I could not financially afford to move to a different apartment therefore I was forced to live in these extreme inhabitable conditions. I spent much of my money on buying water for cooking, drinking, brushing our teeth until it got too expensive for me to do this. I dreaded going home to an apartment where I could not comfortably live in my apartment in which I paid rent, and this made my time at Copper Landing a miserable experience. It was hard for me to focus on my schoolwork and work and my son was constantly absent from school and he too suffered greatly in focusing in school. We both spent many nights not being able to sleep due to the smell coming from the sinks and became extremely nauseated while in the apartment. At times we had to leave our apartment and go into the cold to travel to another facility like the Mall just to have another place to go to during the daytime because of the stench coming from the water.

J [REDACTED] C [REDACTED]

My son J [REDACTED] C [REDACTED] symptoms are as follows: Skin discoloration, chronic bronchitis, shortness of breath (dyspnea), nose bleeds, premature idiopathic adrenarche (puberty disorder) pubic hair in his genital area as well as under arm hair growth, constant illness, rashes all over his body, constantly throwing up, stomach pains, chest pains, asthma, anxiety attacks not being able to breathe. In addition, he may have other side effects from the toxic water that may be dormant in his system that may not arise until later in the future. He has blackness (rash) around his eyes as a result of the water. Kids have in the past and recently have picked on him at school because of the discoloration around his eyes. Often times this problem detours him from wanting to go to school and causing him severe emotional distress. My son also hated going home and would cry often because of the smell that would fumigate our entire apartment coming from the water.

Ernest Commodore

Mr. Commodore experienced stomach sickness every time he consumed the water, and shortness of breath.

Linda Commodore

Mrs. Commodore experienced nose bleeds, rashes that will not go away, high blood pressure, and shortness of breath.

Psychological Damage

J. [REDACTED] C. [REDACTED]

My son suffers from the psychological effects the toxic water situation had on him. He is always at the center of being teased or questioned at school by his peers about the rash he contracted around his eyes from the toxic water. Kids at his school ask him why it looks like he was socked in the eye. These comments bother him as he has come home many times crying and asking why this had to happen to him, why did God send us to live where the water was bad. At the age of seven my son also no longer wanted to wear tank tops because he has a large amount of hair under his arms. He is now 11 and still has these same feelings. Whenever we move to a new place he always asks if the water is bad. During our time in Airway Heights he would hate to wash up because the water smelled so foul and was to the point, I had to buy bottled water and warm it for his bath. Currently J. [REDACTED] still talks about what we went through especially at night when he goes to bed because he can't breathe and has to lay with his head elevated. During these times he reminisces on what we went through in our apartment and tells me "I hate I had to go through that, I wish that never happened to me." This entire ordeal was stressful for my son and he now experience anxiety problems where he can't breathe that resulted from living in such a stressful situation while in Airway Heights.

Melissa Commodore

I have gone to the E.R. on two separate occasions due to the toxic water. In the summer of 2016, I was rushed to the E. R. in ambulance due to the headaches and noxiousness I experienced from inhaling the fumes from the water and the stress this situation put me under. I also experienced chest pains on several occasions due to the anxiety and stress I was under trying to find solutions to remedy what I was experiencing trying to find the source of why our water was smelling and tasting so bad. In 2016 I was admitted to the Deaconess Hospital Heart Attack ward when I went to the E.R. about severe chest pains I was experiencing for some time.

This experience was stressful because I had to buy bottled water on a low income, consistently take my son to the doctor's office to find out why he stayed sick all of the time all while attending graduate school, working and raising my son. My son missed 70% of school due to his illness that resulted from the water. When I tried to find help, no one would listen to me or assist me with this problem. This was extremely stressful for me and it caused me to have

chronic migraines on a daily basis. I experienced extreme mental anguish and emotional breakdowns at times as well, due to the overwhelming pressure this event had on me.

In September of 2017 my mother left me a message that she saw on the news the water in Airway Heights Washington was contaminated. The Fairchild Airforce Base knowingly containmenated public drinking water that myself, my son, and my parents consumed which caused serious health risks and catastrophic medical conditions to each of us.

Due to the length and amount of exposure to the PFO'S and the PFOA's in the drinking water and future blood work needing to be conducted on plaintiffs these injuries are not exhaustive and do not include future health problems that may arise due to the chemicals side effects.

Other People Involved

My father, Ernest Commodore and mother Linda Commodore along with my older sister Jennifer Commodore also consumed the water and is susceptible to the negative side effects to what the water caused along with any other side effects from the toxic water that may be dormant in his system. My mother, sister and I all experienced abnormal rashes in the same area of our body after visiting my apartment and consuming my drinking water on more than one occasion.

Ernest Commodore

My father traveled several times from Western Washington to help care for me and my son and experienced stress worrying knowing my son and I were living in our apartment. This was a hardship on him as he had to stay with us for long periods of time.

Linda Commodore

My mother traveled several times from Western Washington to help care for me and my son and experienced stress worrying knowing my son and I were living in our apartment. This was a hardship on her as she had to stay with us for long periods of time.

VII. CLOSING

Under Federal Rule of Civil Procedure 11, by signing below, I certify to the best of my knowledge, information, and belief that this complaint: (1) is not being presented for an improper purpose, such as to harass, cause unnecessary delay, or needlessly increase the cost of litigation; (2) is supported by existing law or by a nonfrivolous argument for extending or modifying existing law; (3) the factual contentions have evidentiary support or, if specifically so identified, will likely have evidentiary support after a reasonable opportunity for further investigation or discovery; and (4) the complaint otherwise complies with the requirements of Rule 11.

I agree to provide the Clerk's Office with any changes to my address where case-related papers may be served. I understand that my failure to keep a current address on file with the Clerk's Office may result in the dismissal of my case.

12/23/19
Dated

Melissa Comstock
Plaintiff's Signature

Comstock, Melissa L.
Printed Name (Last, First, MI)

34620 4th Pl SW Federal Way WA 98023
Address City State Zip Code

(206) 355-4108
Telephone Number

broadcastcommunications@yahoo.com
E-mail Address (if available)

List the same information for any additional plaintiffs named. Attach additional sheets of paper as necessary.